

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

BOARD OF REGENTS OF THE UNIVERSITY OF NEBRASKA,	)	
	)	
Plaintiff,	)	4:04CV3356
	)	
v.	)	
	)	
BASF CORPORATION,	)	MEMORANDUM AND ORDER
	)	
Defendant,	)	
	)	
MONSANTO COMPANY,	)	
	)	
Intervening Plaintiff,	)	
	)	
and	)	
	)	
SYNGENTA CROP PROTECTION, INC.,	)	
	)	
Intervening Defendant.	)	
	)	

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The parties jointly and orally moved to continue the March 8, 2007 telephonic planning conference. This motion will be granted, and the planning conference will be set for March 26, 2007.

The protective order entered in this case states:

Confidential Information [as defined by the protective order] in the form of documents which are submitted to the Court with any filing or proceeding in this litigation shall be filed as "restricted access" documents, with electronic court filing access available only to parties of record and court users.

Filing 182, ¶ 8. Had the telephonic planning conference occurred on March 8, 2007, the court would have advised or reminded the parties of upgrades to the court's electronic filing system that

were contemplated when the protective order was entered, and which will be particularly beneficial to the parties in this case.

Beginning March 12, 2007, attorneys registered on the court's electronic filing system will be able to electronically file documents "under seal" or as "restricted access" documents. This upgrade to the electronic filing system alleviates the strain on the court's resources by allowing the parties to scan "sealed" and "restricted access" filings into the electronic filing system. The responsibility for properly identifying and filing such documents rests with the parties.

It is therefore imperative that the parties understand the significant distinctions between "under seal" and "restricted access" as those terms are used by this court. Documents filed "under seal" on the court's electronic filing system can be viewed by only court users; documents filed as "restricted access" documents can be viewed by court users and attorneys of record. Accordingly, "Confidential Information" filed as "restricted access" documents can be served on all parties by the court's electronic filing system and need not be separately mailed. A certificate of service is still required. However, if a party electronically files documents "under seal," no attorney, including the filing attorney, can retrieve the document online, and the document will not be served on other parties by the court's electronic filing system.

Accordingly, the protective order in this case requires all "Confidential Documents" to be filed as "restricted access" documents. This method of filing will assist the parties in efficiently litigating this case, limit the possibility of

inadvertently serving incomplete copies of voluminous filings on other parties of record, and eliminate any confusion over which documents were filed with the court in support of or opposition to a particular motion. However, should a party wish to file a document "under seal," (e.g. for *in camera* review by the court), that party must file a motion and obtain a separate order from the court permitting a sealed filing.

The deadline for filing motions for summary judgment is currently set for March 30, 2007, and the court has been advised that "Confidential Information" in support or in opposition to these motions will likely be filed. Many attorneys (or their staff) have already been trained on the March 12, 2007 changes to the court's filing system, but others have not. The court's next scheduled training for attorneys is set for April 10, 2007 from 9:00 a.m. to 11:00 a.m. in Room 3125 of the Roman L. Hruska U.S. Courthouse, Omaha, Nebraska.<sup>1</sup> The court has also posted a newsletter containing information on sealed and restricted access filings.<sup>2</sup> Finally, should the parties have any questions concerning how to file "Confidential Information," or any other questions concerning electronic filing in this court, they may contact the court's website or help desk hotline.<sup>3</sup>

To assure that the court's protective order is followed, that the parties file any "Confidential Information" submitted to the court in this case and do so correctly, and that

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<sup>1</sup>See <http://www.ned.uscourts.gov/cmecf/calendar.html> to register.

<sup>2</sup>See <http://www.ned.uscourts.gov/cmecf/newsletter5.pdf>.

<sup>3</sup>CM/ECF Hotline: Omaha toll free 1-866-220-4381, option 0 Lincoln toll free 1-866-220-4379, option 2

"Confidential Information" is not inadvertently filed on the public docket, the court, on its own motion, will extend the summary judgment deadline to afford all parties an additional opportunity to be trained on the changes to the court's electronic filing system.

IT THEREFORE HEREBY IS ORDERED:

1. The Rule 16 telephone planning conference is continued from March 8, 2007 to March 26, 2007 at 9:00 a.m. Central Time. Plaintiff's counsel shall initiate the call.
2. The summary judgment deadline is extended to April 16, 2007.
3. All attorneys of record shall assure that they, or their local counsel, or staff members acting on behalf of themselves or local counsel, are properly trained concerning the filing of restricted access documents on the court's electronic filing system before they file any "Confidential Information."
4. Delivery of paper copies of "Confidential Information" to the clerk's office shall be the filing method of last resort, and any such documents shall be clearly marked:

"Pursuant to Protective Order filing 182, paragraph 8, this is a RESTRICTED ACCESS filing."

DATED this 9<sup>th</sup> day of March, 2007.

BY THE COURT:

s/ *David L. Piester*  
David L. Piester  
United States Magistrate Judge